1943

K

Examined.
CSP
23/1/56

File No. S. Dwr 5/43
Legal Department
A Branch.

Subject :-

Dharwar Suits.

Dharwar Civil Suit instruction by the Primary Teachers (Hubli) 5 to 27 of 1943 and 34 and 35 of 1943

24

File No. S Dwr 5/43

Contents.

L.D.File No.S. DWR 5/43.

S.No.	Compiliation No.	Subject	Page.
		Suits DWR C.S.Nos.5 to27/43. & 34 & 35 of 1943.	
1.	G.R.L.D. 6006 dt.7.9.43.	Re: Declaration that the right of the Plaintiffs to duty allowance withdrawn from 1-12-30 is ultra vires, illegal and injustified etc. Sanctioning the defence of the suits.	17.

No. 388/12
Dharwar 20 July 1943.

1 ✓

To

The Remembrancer of Legal Affairs,
Bombay.

Subject:-Sanction of the defence in L.C.Suits Nos.5 to 27 and 34 and 35 of 1943 of F.C.Court, Dharwar, for grant of Head Masters' and 1st Assistants' allowances to the primary school teachers by local authorities.

Sir,

In accordance with Rule 118 of the Law Officers Rules, I have the honour to submit herewith chronological statement of facts, grounds of defence and draft written statement in duplicate together with all the papers pertaining to above suits for favour of perusal and sanction of the defence of the suits on the lines mentioned in R.L.A's memorandum no 3715 of 20/5/1943. The copies of the plaint which are almost identical regarding the frame of the suits have been attached herewith. A translation in English of only one plaint is, therefore, appended hereto for favour of reference.

1. The suits have been numbered as L.C.Suits Nos.5 to 27, 34 and 35 of F.C.Court, Dharwar.

2. The above suits have been instituted in the court of the F.C. Sub-Judge, Dharwar, on 4-1-1943.

4. The names of the various plaintiffs have been mentioned

separately in the appendix attached to the draft chronological statement.

4. It is alleged that the notice under Sec.80 of the C.P.C. has been given to deft No.5. i.e. the Province of Bombay.

6. The dates fixed for putting in written statement on our behalf (deft No.5) will be communicated in due course.

It is submitted, therefore, that Government may kindly be moved to accord sanction to the defence of the above suits, with such additions and alterations as may be deemed fit and proper.

Your obedient servant,

S R Mulgund

for District Government Pleader.

Respectfully submitted through the Collector of Dharwar, for favour of necessary action.

S R Mulgund

for District Government Pleader.

3 -2

This relates to Dharwar suits 5 to 27 and 34 and 35 files by certain primary school teachers who complain of the stoppage of the headmasters allowances.

The suits are similar to those the defence whereof was sanctioned by the G.K at Slip 4.

The defence of these suits also may be sanctioned on the lines of that brief.

S Rau.
10/8

Rl. A Rau 10/8

(NO. 140-L
11-8-43

x
Secy G.D.

RR 11/8.

Secy of S.
L.P.L.H

Below letter No. 388 of 20-7-1943 from District Government
Dharwar

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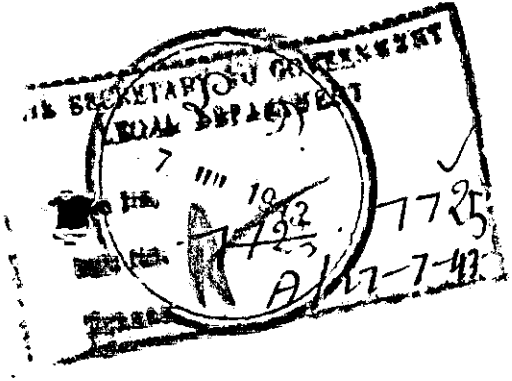
NO. NUN-H-474

Dharwar 22nd July 1943.

Submitted for Remembrancer of Legal Affairs
Bombay.

2. The defence of the suits may be sanctioned



22/7

for C. Collector
Dharwar

necessary sanction before stopping the same. Their action is, therefore, illegal and ultra vires. They had, ~~thxx~~ no proper or sufficeint reason for the discontinuance of the same. The defts should have stopped the payment of the allowance after obtaining the 1,2& 3 permission of the Government of Bombay. This has not been done in 1931. It is learnt that the defts 1,2 and 3 have not taken this decision even after that. Even if they had done so, it would not be legal. And plff is not bound by it. And such decision cannot be given a retrospective effect. The discontinuance of the allowance in question, is therefore, illegal improper and ultra vires. It, is not binding on the plff. The order or decision of the discontinuance of the said allowance, if ~~ma~~de, is improper, illegal and ultra vires and the plff is entitled ~~to~~ to the said allowance up to this date. This fact should be taken into consideration towards plff's pension.

4. The attendence allowance was being fixed on the basis of the average attendance of the boys which varied from time to time. The plff is not in a position to state how many boys attended the school at a particular time, and as such it is not possible for him to say what amount is due to him on account of the said allowance. The suit has been filed for taking accounts from defendents ~~from~~ 1 to 4in respect of the amount due on account of attendance allowance on being declared that the plff is entitled to the same with ~~int~~ interest.

5. The cause of action has arisen from time to time when the defts have illegally stopped the payment of attendance allowance.. But as the plff's right being a periodically recurring right, the suit which has been instituted for the adjudication of this right is in time.

7. The act of the defendants in stopping the said allowance being illegal improper and ultra vires, it is not in pursuance of the Muncipal and the Primary teachers Act. It is, therefore, not necessary to give ~~any~~ notice to ~~the~~ any of the defts before bring the suit. But in order that the suit should not be defective or bad ~~for~~ on this score a notice has been delivered to the defts 1 to 5 on about 26-10-1942.

8. It is alleged that ~~the~~ plff is the servant of the deft No.3. The plff's pay and allowance is paid ~~by deft~~ by deft No.3 through

necessary sanction before stopping the same. Their action is, therefore, illegal and ultra vires. They had, ~~xxxx~~ no proper or sufficeint reason for the discontinuance of the same. The defts should have stopped the payment of the allowance after obtaining the 1,2& 3 permission of the Government of Bombay. This has not been done in 1931. It is learnt that the defts 1,2 and 3 have not taken this decision even after that. Even if they had done so, it would not be legal. And plff is not bound by it. And such decision cannot be given a retrospective effect. The discontinuance of the allowance in question, is therefore, illegal improper and ultra vires. It, is not binding on the plff. The order or decision of the discontinuance of the said allowance, if ~~made~~, is improper, illegal and ultra vires and the plff is entitled ~~to~~ to the said allowance up to this date. This fact should be taken into consideration towards plff's pension.

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8. It is alleged that ~~the~~ plff is the servant of the deft No.3. The plff's pay and allowance is paid ~~by deft~~ by deft No.3 through

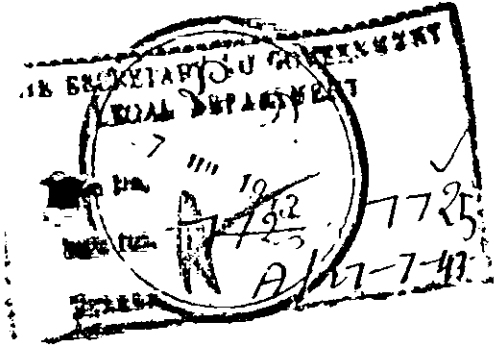
Below letter No. 388 of 20-7-1943 from District Government Dharwar

5 A1

No. NON-H. 474 Dharwar 22nd July 1943.

Submitted to the Remembrancer of Legal Affairs Bombay.

2. The defence of the suits may be sanctioned



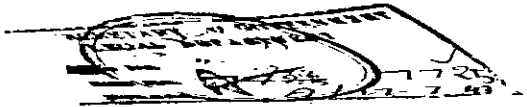
27/7 for C. Nicholson
Dharwar

Below letter No. 388 of 20-7-1943 from District Government Dharwar

5 A/H

No. NON-H. 474

Dharwar 22nd July 1943.



deft No.4. The Hubli Muncipal Borough contends that it is within its competency and authority to determine the rate of pay and allowance. 9 As the said institution is a necessary party it is made as as deft no.1 As the said muncipality has been superceded by Government, and as deft No.2 yhas been appointed its Administrator, he is made as deft No.2 As the Government of Bombay is liable to ~~xxxxxx~~ contribute a portion of the pay and allowance, and as they are authorised to give sanction for the payment of the same at a reduced or enhanced rate, the Provincial Government of Bombay has been made as deft No.5.

8. Valuation of the suit:- As the suit is for a declaration and consequencial relief, an amount of Rs.5/- has been paid on account of court-~~ff~~ fees. The valuation of the suit is Rs.65/- for jurisdiction and pleader's fees.

9. Plff and defts Nos.1 to 4 reside in Hubli. The cause of action for the suit arose there. But as the suit is also against Government it is competent to this court to entertain the same.

10. Plff's prayer is as under:-

(a) As the discontinuance of the attendance-allowance is illegal, improper ~~xxx~~ unathorised and ultra vires, the right of the plff

to receive the said allowance is not lost; it is still subsisting and he xxxxxxxxxxx is entitled to count the same towards his pension. The court may be pleased to give a declaration accordingly..

(B) Accounts should be ordered to be taken from the defts for the determination of the exact amount due on account of attendance allowance from 1-11-1931.

(E) The sum due after taking accounts should be ordered to be paid from the defts who are responsible for the payment of the same to the plff. The plff is ready and willing to pay the necessary additional court-fee in this respect.

(f) The costs of the plff should be awarded.

3-1-1943.

Dharwar L.C.Suit Nos.5 to 27 of 1943 and Nos.34 and 35 of 1943, for a declaration and accounts in respect of attendance allowance to Primary Teachers in Hubli Muncial Borough.

Chronological statement of facts.

1. This is another set of ~~30~~ 25 suits filed by the Primary teachers serving in the Muncipal schools under the administration of th. School Board of the Hubli Munciapl Borough, District Dharwar. The Hubli Munciapl Borough having been superceded by Government deft No.2 has been appointed as the Administrator. The suits are for (1) a declaration that the right of plffs to receive payment of attendance allowance stopped by deft No.1 to 3 since November 1931 is illegal unjustified, unauthorised and ultravires and that the plffs have a right to take the allowance into consideration for the purposes of pension and (2) accounts of such allowance due to plffs.

Please see R.L.A.'s memorandum No.3715 of 20th May 1943 - relating to L.C.Suits Nos.323 to 335, 349 365 and 366 of 1942 on the file of the F.C.Sub-Judge, Dharwar.

2. The history of service and receipt of attendance allowance by the various plffs as mentioned in the plaint is given in appendix 'A'

3. Each of the plffs entered Government service as a Primary teacher before 1923 and each of them was transferred to the Hubli Muncipality under Section 8 of the Primary Education Act, 1923. They are still in the service of the Local Authority.

4. The Governm.nt were pleased to sanction a scheme for revision of the scales of pay of primary teachers as per Educational Department Resolution No.560 dated the 24th March 1924, contained in the Press Note No.560 dated 3rd December 1923 subject to the qualification that the proposal to grant Headmasters' allowance based on attendance which was represented to Government as being not quitesatisfactory, was not brought into force pending the decision of the Government in the matter.

5. By Educational Department Resolution No.560 dated the 10th March 1926, Government directed that duty allowance (now called special pay) should be granted, with effect from 1st March 1923, on the lines suggested in para 2 of the Surve Committee's report and should be calculated on

the basis of average attendancefor two years. P.14 & 15.

6. By G.R.E.D.No.560 dated 29th Marvh 1926, it was directed that the revised rates of Head-master's allowance should take effect only from the 1st April 1925.

7. By G.R.E.D.No.560 dated 21st June 1926 Government directed that in respect of the period from 1st March 1923 to 20th February 1925 (both days inclusive) the duty allowance should be paid on the lines contained in paras 2 and 11 of the scheme appended to the Government Resolution of 10th March 1924 mentioned in para 3 above..

7A. On 20-8-1926, The School Board, Hubli Muncipality resolved that the allowance to the Headmasters' and 1st Asst teachers, according to Ruleshould be paid for the previous 3 years.

8. After consideration whether the Headmasters' and 1st Assistants' allowance sanctioned by Government resolution of the 10th March 1924 fulfilled any useful purpose, Government by their G.R.E.D.No.S.72 dated 12th November 1930 intimated that it would raise no objection if any local authority wish-ed to withdraw such allowance after December 1930. P.19.

9. The Director of Public Instruction having drawn attention to section 8 (2)(b) of the Primary Education Act 1931, Government by Resoltuion No.S.72 dated 17th April 1931 informed him that Local authorities should obtain previous sancti-on for discontinuance of such allowances. P.25.

10. On 16-6-1931, the Hubli Muncipal School Board - resolved that the allowances to Headmasters and 1st Assistants should be stopped from the date of sanction of Government, on the grounds that the system was not beneficial to the schools, caused loss and trouble to them and that Government wanted to effect retrenchment.

10A. On 2-4-1931, The Hubli. Muncipal Borough in its - meeting of the General Body, G.C.No.357/2- 11-31 resolved that the Headmasters' and the 1st Assistants' allowance in primary schools should be discontinued from 1-11-1931 subject to the - sanction of Government,

11. As per his No.859 dated 13-11-1932 , the President, Hubli Muncipal Borough wrote through the Collector of Dharwar

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to the Secretary of Government in the Educational Department submitting a copy of the General Committee's resolution, and requesting that Government might be pleased to sanction the
P.35 & 38. proposals of their Muncipality. In the letter it was stated that the teachers had been paid their allowances in full upto 31-10-31.

12. On 25th November 1931, the Director og Public Instruction in his No.S.84(8)-144-D requeated the President of the Hubli
P.34. Muncipality to state whether the discontinuance of the Head Masters' and 1st Assistants' allowances was to be made applicable to all teachers i.e. thosehands whose services were transferred to theMuncipality under the P.E.Act, as also those appointed after 30th June 1923 for whom latter scales of pay as laid down in Government G.R.E.D. No.72 of 12th July 1929 including Headmasters' and 1st Assistant's allowances had been adopted as per G.R.E.D. No.S.72 (60) of 21st May 1930 with effect from 1st March 1930.

On 5th January 1932, the Government in its resolution, Educational Department No.S.72(60) resolved that the proposal of the Hubli muncipality to discontinu the payment of Headmasters' and 1st Assistants' allowances should be sanctioned with effect
p.36. from 1st November 1931, to all the primary teachers in its employment.

14. On 1st September 1941 the Hubli Muncipal School Board passed a resolution as follows:- "Considered D.P.'s letter No.S.84 (A)-78-III-D of 9th August 1941 and in view of it and in pursuance of G.R.E.D.No.72(60) of 5-1-1932, the action taken by the Local authorities in discontuning the Headmasters' and 1st Assistants' allowances from 1-11-1931 under G.B.R.No.357 of 2-11-1931 be confirmed and adopted with retrospetive effect and further resolved thatthe action taken by the local authorities in pursuance of G.R.E.D
P.2 No.9200 of 12-12-1931 and letters from the D.P.I. No.S.9825, do of 23-12-1931 and S.(67-(d)-652 and of 29-3-1932 in effecting an emergency cut in the salary of Primary teachers from 1-5-1932 under G.B.R.No.41 of 1915/32 be also confirmed and adopted with retrospective effect.

14A. On 25th November 1941 the School Board Muncipal Borough Hubli further amended the resolution of of 1st September 1941

as follows:- "This board resolves unanimously that S.B.R. No.46 of 4-9-1941 be modified as under". "The phrase - considered D.P.I.'s letter No.S.84(2)-78-III(d)-D of 9th August 1941" be substituted by the ~~prx~~ pharse, 'considered the High Court Judgment of 6-3-1940 in Nanaji Vasanji Naik Vs. The Government of the Province of Bombay (Appeal No.102 of 1938).

15. On 26-10-1942, 28 persons including all the present plaintiffs gave through their advocate a notice of suit under Section 80 C.P.C. to the Administrator, Hubli Muncipal~~ity~~ - Borough, ~~who accepted the~~ who accepted the same on 27th October 1942.

16. In para 6 of the plaint it is alleged that a notice of suit has been given to deft No.5 (i.e. the Province of - Bombay).

Please note the notice is not on the record

17. On 4-1-1943 the plaintiffs have filed the present 25 suits praying for (a) declaration that the plffs' right to receive the allowance and get it calculated for pension is - subsisting (b) taking accounts of the allowance from 1-11-1931 the date from which plff is entitled to receive it (c) for recovery of such amount as may be found due on accounts on payment of court fee & (d) for court costs.

Grounds of Defence.

These 25 suits are almost similar in form and nature as the 17 suits the defence of which has been sanctioned as per Memorandum No.3715 of 20th May 1943 by the R.L.A., Bombay. The ~~only~~ difference regarding these suits ~~xxx~~ is that ~~the Hubli Muncipal Borough has not recorded any resolution stopping the allowance in question after having obtained sanction of the Government to stop the same as per G.R.E.D.No.S.72(60) dated 5th January 1932 (C.S.F.para 13) and (2)~~ the plffs do not claim to be Government servants after the transfer of their services to the Local authority, but claim to be the servants of deft No.3 the Hubli Muncipal School Board (Please vide para 7 of plaints). The grounds alleged in para 7 of the various plaints for - impleading Government as deft are that ~~xxx~~ (a) Government is responsible for payment of a portion of the allowance ~~at an~~ rate (2) Govt. as power to sanction allowance~~s~~ enhanced or reduced. It would,

21/15

therefore, appear that practically all the grounds of defence ~~except those contained in para 9 of the grounds of defence~~ accompanying R.L.A.'s memorandum No.3715 of 20th May 1943 would be required to be urged in these suits. Further the written statements to be put in here will be almost the same as those in the 17 suits mentioned in the above R.L.A.'s memo and no material alterations seem to be necessary.

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Suits:

Dharwar.

For a declaration that the right of the plaintiffs to duty allowance withdrawn from 1st December 1930 is ultra vires, illegal and unjustified etc..

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 6006
Bombay Castle, 7th August 1943.

Letter from the District Government Pleader, Dharwar No. 388 dated the 20th July 1943 - Forwarding papers in the suits noted in the appendix and requesting sanction to their defence.

Endorsement by the Collector of Dharwar No. M.O.N.H 474 dated the 22nd July 1943 - Forwarding the above with his concurrence.

Memorandum to the District Government Pleader, Dharwar No. 5614 dated the 19th August 1943 - Stating that the defence of the suits is sanctioned on the lines of the brief accompanying Government Resolution Legal Department No. 3716 dated 20th May 1943.

RESOLUTION.- The defence of the suits should be sanctioned on the lines of the brief accompanying - Government Resolution, Legal Department No. 3716 dated 20th May 1943.

By order of the Governor of Bombay,

B. G. Nadeshwar

For P. N. MOOS,
Secretary to Government.

To The General Department,
The Educational Department,
The Commissioner, S.D.,
The Director of Public Instruction, Poona,
The Collector of Dharwar,
The District Government Pleader, Dharwar.

RRK.
9.

Submitted after issue
how it is for orders as to
whether all the papers except our
office papers should be sent Co.-
D.G.P.

RLB. AS - Yes
SHS

RJS 13/9

APPENDIX.

Dharwar Civil Suits.
In the Court of the First Class Sub-Judge, Dharwar.

Dharwar Civil Suit No.	Plaintiff's name	Defendants.
5 of 1943	Keshav Ramchandra Tamankar.	1. The Hubli Municipal Borough, Hubli, through its Chief Officer. 2. The Administrator, Hublic Municipal Borough, 3. The School Board, Hubli Municipal Borough through its Chairman 4. The Administrative Officer, L.A., Municipal School Board, Hubli. 5. The Province of Bombay.
6 of 1943	Gulappa Aynappa Ayannavar	-do-
7 of 1943	Maktumhussen Nabisab Pinjar	-do-
8 of 1943	Maktumhussen Divansab Mulla	-do-
9 of 1943	Mohadinsaheb Mahammadgavasaheb Dharwar	-do-
10 of 1943	Mahammadgavas Gajbarsaheb Kalaigar	-do-
11 of 1943	Fakirayya Hampayya Samsimath	-do-
12 of 1943	Abdurahimansab Hazaratsaheb Javali	-do-
13 of 1943	Mahabubi Kom Syadauud Basari	-do-
14 of 1943	Mattesaheb Abdul Kadirsaheb Kiresur	-do-
15 of 1943	Immamsaheb Ahammadsaheb Kankudati	-do-
16 of 1943	Mahammadyakub Peersaheb Kankudati	-do-
17 of 1943	Krishnaji Laxmikant Laxmeshwar	-do-
18 of 1943	Babubai Joshi	-do-

Dharwar Civil Suits.

In the Court of the First Class Sub-Judge, Dharwar.

Dharwar Civil Suit No.	Plaintiff's name	Defendants.
19 of 1943	Shivubayavva Kom Channappa Kammar	1. The Hubli Municipal Borough, Hubli, through its Chief Officer. 2. The Administrator, Hubli Municipal Borough, 3. The School Board, Hubli Municipal Borough, through its Chairman, 4. The Administrative Officer, L.A., Municipal School Board, Hubli, 5. The Province of Bombay.
20 of 1943	Parvateppa Mallappa Vallannanavar	-do-
21 of 1943	Shiddayya Fakirayya Kattemani	-do-
22 of 1943	Shidramayya Shidlingayya Kattemani	-do-
23 of 1943	Maktumhussen Abdulkadar Saheb Dharwar	-do-
24 of 1943	Lingava Kom Gurushantava	-do-
25 of 1943	Fakirayya Hirayya Hiremath	-do-
26 of 1943	Krishnaji Bhairambhat Joshi	-do-
27 of 1943	Bhimaji Anant Godkhindi	-do-
34 of 1943	Shiddangouda Lingangouda Hiregoudar	-do-
35 of 1943	Basappa Shidramappa Shinde	-do-

Please see E.D. note at p.49 ante. The D.G.P., Dharwar, has asked for copies of certain G.Rs. in connection with suits filed by primary school teachers. The R.L.A. is requested to advise whether documents at Serial Nos.3,5 and 7 of para.1 of the G.D. note and the F.D.,G.R. of 1931 should be withheld on ground of detriment to public interest.

Reply may be as follows:-

A The question whether the production of any document from the records of Govt. would be detrimental to public interests is mainly ~~one~~ dependent upon administrative considerations and is one for the decision of the administrative department concerned. In so far as the question has relation to the suits filed by the primary teachers against local authorities and Govt., it appears that it would not in any way prejudice Govt.'s defence if the G.D.,G.Rs. at Serial Nos.3,5 and 7 of para.1 of the G.D. note are produced.

2. The same considerations apply in respect of the G.R. F.D.No.9200 dated 12-1-1931. It is however not quite clear why the D.G.P. wants to produce this G.R. The Resolution presumably follows, as ~~seems~~ was contemplated therein, by enactment of the Bombay Civil Services (Emergency deductions in Salaries) Rules. The D.G.P. may therefore be asked to state whether the document at Serial No.9 of his letter is G.R.,F.D.No.9200 dated 12-1-1931 which relates to emergency deductions in salaries; if so, why he thinks it necessary or desirable to produce that G.R. and whether the purpose he has in mind cannot be served by the production of the Bombay Civil Service (Emergency Deduction in Salaries) Rules a copy whereof may be sent to him. A

BSR
29/11
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R.L.A Rec 1/12

A.A above was sent as reply
vide to E.D. No. 8940 dt. 3-12-1943.

~~H~~
23

Received on 4-1-43
Registered on 4-1-43
Decided on 30-3-44
Duration 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,
AT DHARWAR.

Ex. 75

L.C.Civil Suit No. 5 of 1943.

Pleaders

Messr. S.S.MALIMATH. &Mirgi

Keshav Ramachandra Tamhankar, Age 53, Caste Brahmin, Occupation School Master, of Hubli.

PLAINTIFF

against

Mr. Gudwala
1. The Hubli Borough Municipality Hubli, through its Chief Officer.

Do
2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Govt. service, of Hubli.

Do.
3. Hubli Local Authority Borough Municipality Scholl Board Hubli, through its Chairman.

Do.
4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Rs.Sawkar & Mr. Malapur.
5.The Bombay Province (The Province). Defendants.

Claim -Rs. 65/-.

Suit for a declaration that the order of the Municipality to discontinue the allowance is ultra vires of the Act and to have accounts taken of the amount falling due.

(2) The plaint is based on the allegations that the plff was employed as a teacher by Government on 20th August 1909 , that in 1923 his services were transferred to the L.A. (Hubli Municipality), that he is a trained teacher, that he is now acting as Head-master, that he was being given attendance

allowance, that this allowance has also the effect of increasing his pensiom, that from 1st November 1931 the municipality discontinued the allowance, that the previous sanction of the Government was not obtained, that after the Government sanctioned the proposal the municipality should have further decided to discontinue the allowance, that in the absence of subsequent approval the action of the municipality is ultra vires, that the cause of action arose on defferent dates and that consequently, this suit is within time.

(3) Defts Nos. 1 to 4 in their W.S. Exh. 18 contend that the allowance was merely bounty and cannot be enforced by suit, that this allowance was granted subsequent to the plff's transfer to the Hubli Municipality, that the allowance was discontinued according to law, that the plff is not entitled to claim accounts, that the suit is barred under Section 80 C.P.C. and Section 206 of the Municipal Act and Section 26 of the Primary Education Act.

(4) The Government of Bombay in their W.S. Exh. 19 contend that the suit is barred by limitaiton, that the Government of Bombay cannot be held accountable and that the suit should be dismissed with costs.

(5) The following issues were framed in the case :-

1) Whether the Hubli Borough Municipality considered the matter after they obtained the sanction of the Government ?

2) Whether the Resolutions marked as Exhs. 31 and 32 show that the Municipality either considered the matter or that there was subsequent approval indicating that they exercised the power to discontinue the allowance in accordance with the terms

25

of the Primary Education Act of 1923?

3) Whether the action of the Municipality in - discontinuing the Plff's allowance is ultra vires of the Primary Education Act of 1923.?

4) From that date is Plff entitled to the attendance allowance .?

5) Whether the Plff is entitled to the declaration sought ?

6) What amount is due to the plff on the basis of the declaration .?

7) Whether the claim is within time.?

8) If the finding is in the negative, to what extent is the claim time-barred.?

9) Whether notices were served on the defts .?

10) Whether notices were necessary .?

11) Whether the notices were according to law ?

12) Whether the defts are entitled to the allowance ?

13) Whether the suit is time-barred under Section 80 C.P.C., Section 206 of the Bombay Municipal Boroughs Act, and Section 26 (e) of the Primary Education Act.?

14) Whether the suit is bad for misjoinder of parties and causes of action .?

15) Whether the Government is a necessary party to this action .?

16) What order.?

(6) My findings are :-

(1) Yes

(2) Resolutions marked as Exhs. 50, 32 and 51 show that the Municipality considered the matter and that there was subsequent approval.

(3) No.

(4) No.

(5) No.

(6) Does not arise.

~~(7)~~

(7)
(8)
(9) Unnecessary.
(10)
&)
(11)

(12) No.

(13) Unnecessary.

(14) Unnecessary.

(15) Government is a proper party, but not a necessary party.

(16) General issue.

R E A S O N S

(7) The plff's case is that he was enjoying allowance which had been sanctioned by Government. He complains that, that allowance was wrongfully taken away as from the 1-st November 1931. The facts are briefly these :-

The plff was originally employed under the Educational Department of the Government of Bombay. Then in 1925, the Hubli Municipal Borough toook over and employed him as a teacher under the Bombay Primary Education Act 1923. - Section 8 provides :-

" (1) A local authority shall take over and emply such primary school teachers employed under the Educational Department of (the Provincial Government) as (the Provincial Government) may direct, on the same terms and conditions on which such persons were employed under the said department. "

Then sub-section 2 provides :-

(2) "The existing and future rights, liabilites, duties and powers of (the Provincial Goverment) in respect of such teachers shall vest in and be

exercised or performed by the local authority".

(8) Under this section , the plff who had been a teacher in Govt: service was taken over by the M --- Municipality. Two things must be rmembered in this connection. Firstly, that while in Government service - allowance had not been paid to the plff. secondly, that Government imposed the allowance after the plff was taken over by the Municipality

(9) The evidence establishes that on 2nd November 1931 the Hubli Municipa Borough passed the following resolution :-

> " Propsoed by Mr. K.B.Patil , Secconded by Mr. M.S.Shetti that the Head Masters' and 1st Assistants' Allowances in - Primary Schools be discontinued from 1-11-31 subject to the sanction of Government.
>
> The proposition is put to vote and carried nem com." (Exh. 48).

(10) Later , Government by Resolution No. S -72 (60) (Exh. 46) dated 5th January 1932 gave sanction. The Government resolution was in these terms :-

> " The proposal of the Hubli Municipality to discontinue, with effect from 1st November 1931, the payment of the Head Maser's and 1st Assistants' - allowances to all its Primary teachers is sanctioned ".

(11) Having got the sanction of Government to their proposal , the School Board passed the following resolution on 18th January 1932 (Ex. 50):-

> "Joint application of primary school teachers to continue the attendane allowances.
>
> Read the applicantion of Primary

teachers regarding the continuance of attendance and G.R.E.D.No. S-72(60) of 5-1-1932 and resolved that the consideration of the subject be dropped in view of the G.R.

Sd/B.P.Tambad,
Chairman S.B."

(12) Then on 5th February 1932, the Hubli Municipal Borough passed the following resolution (Exh. 32):

"470 Item No. 1. To record the proceedings of the School Board meeting held on the 18th January 1932.

Proposed by Mr. Anegundi, Seconded by Mr. Channur that the proceedings of the School Board meeing held on 18th - January 1932 be recorded.

The proposition is put to vote and carried nem com.

Sd/ M.A.Savanur,
President,
Hubli Municipality. "

13) On 11th May 1932 the following resolution was passed by the Hubli Municipality (Exh. 51):-

"(20) .. Item No. 7 . To consider the - correspondence ending with the resolution of the School Board No. 117 of 18-1-32, re: discontinuance of Head Masters' and - Assistants' allowances . . .

Proposed by Rao Saheb N.S.Chitguppi seconded by Mr. Narayanappa Hubli that the application of the Head Masers' and 1st - Assistants' requesting to continue the - attendance allowances be rejected as the discontinuance is sanctioned by Government in G.R.E.D.No. S-72(10) of 5-1-32.

The proposition is put to vote and carried nem com.

Sd/ M.A.Savanur,
President,
Hubli Municipality. "

(14) Now, I assume that the Municipality could only discontinue the allowance with the prevous sanction of the Government. On this assumption, Mr. Malimath for the plff argued that the correct course, having got the sanction of Government to their proposal, would have been to hold a meeting of the Municipal Council and to decide to discontinue the allowance as sanctioned by Government. He submits that that would have been a valid resolution passed with the previous sanction of Govt:.

(15) The answer made on behalf of the Municipality and the Government of Bombay to this contention is that the resolutions subsequently passed by the School Board and the Municipality Exhs. 50,32 and 51 clearly establish that the Municipality had, in fact, decided to discontinue the allowance, having got the previous sanction of Government.

(16) The quesion came before the Bombay High Court in Appeal No. 102 of 1938 against the decision of the District Judge at Surat and it was observed as follows. (Exh. 59):-

> It is not necessary under the Act to have a formal resolution. It would be enough to show that the committee had, in fact, decided to adopt that course "

(17) It is , therefore, necessary to determine the question whether we have evidence in this case to show that Hubli Municipal Council ever considered the

matter after they obtained the sanction of Govt:

(18) To my mind, Exhs. 50, 32 and 51 clearly establish that the Municipality consedered the matter. The meeting held on 11-5-32 (Exh. 51) was intended to transact the following business:-

> "To consider the correspondence ending with the resolution of the School Board No. 117 of 18-132, re: discontinuance of the Head Masters' and 1st Assistants' allowances".

(19) And the resolution passed at the said meeting states definitely that the motion was based on the Govt: resolution sanctioning the discontinuance.

(20) Undoubtedly, Exhs. 50.32 and 51 flowed as a natural sequence from their own original proposal to discontinue the allowance with effect from 1-11-31. Having already decided to discontinue the allowance, and having obtained the sanction of Government , the matter to my mind when it again came up again before the General Body, did not demand any special consideration. Government had sanctioned it and what was necessary under the Act was to adopt a formal resolution.

(21) Mr. Malimath argued that Exhs. 50,32 and 51 were with reference to "the joint application of primary school teachers" and not with reference to the duty imposed on them under Section 8 of the Bombay Primary Education Act of 1923.

(22) To my mind, the issue was whether the allowance should or should not be discontinued either by reason of the Government resolution sanctioning the disallowance or by reason of the petition of the primary teachers to reconsider

the matter. The matter was, accordingly , referred to the Municipal Council and they ultimately decided to discontinue the allowance. The resolution Exhs. 50, 32 and 51 had thus the effect of discontinuing the allowance. Previous sanction of Government had been obtained. The resolution passed by the Council was the final expression of the will of the Municipality to discontinue the allowance. Consequently, in my opinion, the action taken by the Municipality must be considered as Subsequent approval to discontinue the allowance.

(23) Mr. Malapur for the Govt: of Bombay also argued that the provisions of Section 8 cannot be applied. He submits that sub-section (2) (b) merely ensures to the teachers " Pay and allowances applicable to them at the time at which they are taken over and employed by the Local Authority."

(24) The facts necessary to be borne out in mind in determining this question are :- Firstly, that the plff was paid allowance after he was taken over by the Municipality. Secondly, that allowance paid to the plff was only a bounty on the part of the Local Authority.

(25) Now, if a teacher cannot compel the Municipality to pay him allowance and this position is admitted by Mr. Malimath for the plff, because the allowance is only a bounty, then it must follow that the plff has no cause of action if the Municipality discontinued the allowance. The position would have been different if allowance had been paid to a teacher at the time he was taken over by the municipality. In such a case, under sub-section (2) (b) his allowances could not be altered without the sanction of Government.

But since allowances were paid to him after he was taken over by the Local Authority , I am of the opinion

that it is not open to the plff to rely on Section (2) (b) which is limited to allowances enjoyed by the teacher at the time he was taken over by the Local Authority. But in view of my finding that even under sub Section (2) (b) the suit is not tenable, it is unnecessary to consider the question in greater detail.

In this view of the matter, the suit fails.

In the result, the suit is dismissed. The defts Nos. 1 to 4 to recover one set of costs from the plff. Plff also to pay the costs of the Government (deft No. 5).

30-3-44. Sd/ A.C.Sequeira',
Joint First Class Sub-Judge.

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2 - JAN 19

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33

Received on:- 4-1-1943.

Registered On:- 4-1-1943.

Decided on:- 30-3-1944.

Duration :- 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR. Exh. 21.

L.C.CIVIL SUIT No. 6 of 1943.

Pleaders.

Messrs. Mirji & Malimath.

Goolappa ~~s~~ Ayya-ppa Ayyannavar, Age 43, Caste Lingavant, Occupation School Teacher, of Hubli. PLAINTIFF.

Against.

Mr. Gudwala.

1. The Hubli Borough Municipality Hubli, Through its Chief Officer.
2. The Administrator Hubli Borough Municipality Ra-o Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Govt. service, of Hubli.
3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.
4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. Malapur.

5. The Bombay province (The Province). D-5b.

Claim Rs. 65/-.

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reason mentioned in the Judgment in that Suit, I pass the following order.

O R D E R .

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-1944. Sd/ A.C.Sequeira.
Joint First Class Sub-Judge.

30-3-1944.

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35

Received on - 4-1-43

Registered on 4-1-43

Decided on 30-3-44

Duration = 451 days

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L.C. Suit No. 7 of 1943.

Exh. 21

Pleaders

Messrs. Mirgi and Malimath

Maktum-husein wd: Nabisaheb Pantoji, Age 54, Caste Musalman, Occupation School Master, of Hubli.

Plaintiff

against

Mr. Gudwala

do

do

1. The Hubli Borough Municipality Hubli, through its Chief Officer.
2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Govt: service, of Hubli.

Do

3. Hubli Local Authority Bonough Municipality School Board Hubli, through its Charman

Do

4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. Malapur

5. The Bombay Province (The Province).

Defendants.

Claim - Rs. 65/-.

~~The Plaintiff sue to~~ This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the Judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

Sd/ A.C.Sequeira

30-3-44 Joint First Class Sub-Judge.

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2 - JAN ....

37

Received on 4-1-43.

Registered on 4-1-43.

Decided on 30-3-44

Duration 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE ,

AT DHARWAR.

L. C. Suit No. 8 of 1943.

Exh. 20

Messrs . Merigi & Malimath

Maktum-hussain Divansaheb Mulla, Age 50, Caste Musalman, Occupation School Teacher, of Hubli.

Plaintiff.

against

Mr. Gudwala

1. The Hubli Borough Municipality Hubli, through its Chief Officer.

Do.

2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Govt: Service, of Hubli.

Do.

3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman

Do.

4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. Malapur.

5. The Bombay Province (The Province). Defendants.

Claim- Rs. 65/-

~~The Plaintiff sue to~~ This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 ~~and~~ to get their ~~xxxx~~ costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

Sd/ A.C.Sequeira
Joint First Class Sub-Judge.

30-3-44

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2 - JAN 1956

Received on 4-1-43.

Registered on 4-1-43.

Decided on 30-3-44

Duration 451 days

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE, AT DHARWAR.

L.C. Suit No. 9 of 1943.

Exh. 20

Pleaders
Messrs. Mirgi
& Malimath

Mohaddin-saheb Mahammad-Gaus of Dharwar, Age 47, Caste Musalman, Occupation School Teacher, residing at Hubli.

Plaintiff

against

Mr. Gudwala — 1. The Hubli Borough Municipality Hubli, through its Chief Officer.

Do. — 2. The Administrator Hubli Borough Municipality Rao Saheb P. L. Benni, Age 50, Caste Lingayat, Occupation Govt: service, of Hubli.

Do. — 3. Hubli Local Authority Borough ~~Municipality~~ Municipality School Board Hubli, through its Chairman

Do. — 4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. Malapur. — 5. The Bombay Province (The Province).

Defendants.

Claim - Rs. 65/-.

~~The Plaintiff sue to~~ This suit was tried as a connected suit along with L.C.Suit 5 of 1943. The pleadings are the same and have been summarised in suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

Sd/ A.C.Sequeira.

30-3-44.

30-3-44. Joint Firs Class Sub-Judge.

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41

Received on -4-1-43.
Registered on 4-1-43.
Decided on - 30/3/44
Duration 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,
AT DHAREAR.
L.C. Civil Suit No. 10 of 1943.

Exh. 20

Pleaders
Messrs. Malimath
& Mirgi

Muhammad-Gaus wd: Gajabir-saheb Kalaygar,
Age 44, Musalman, Occupation Primary
School Teacher, of Hubli.

PLAINTIFF .

against

Mr. Gudwala — 1. The Hubli Borough Municipality Hubli,
through its Chief Officer.

Do — 2. The Administrator Hubli Borough Municipality
Rao Saheb ~~P.~~ P.L.Benni, Age 50, Caste Lingayat,
Occupation Govt: service, of Hubli.

Do — 3. Hubli Local Authority Borough Municipality
School Board Hubli, through its Chairman

Do. — 4. The Administrative Officer, Local Authority
Municipal School Board Hubli.

MR. Malapur — 5. The Bombay province (The Province). Defts.

Claim - Rs. 65/-

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

30-3-44. Sd/ A.C.Sequeira
Joint First Class Sub-Judge.

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2 - JAN 19[illegible]

~~42~~
43

Received on - 4-1-43.
Registered on - 4-1-43.
Decided on 30-3-44.
Duration 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,
AT DHARWAR.
L.C.CIVIL SUIT No. 11 of 1943.

Exh. 20

Pleaders

Messrs. Malimath &Mirgi — Fakirayya Hampayya Samsimath, Age 44, Caste Lingavant, Occupation School Teacher, of Hubli.

PLAINTIFF

against

Mr. Gudwala — 1. The Hubli Borough Municipality Hubli, through its Chief Officer.

Do. — 2. The Administrator Hubli Borough Municipality Rao Saheb P.L. Benni, Age, 50, Caste Lingayat. Occupation Govt: Service, of Hubli.

Do — 3. Hubli Local Authority Borough Municipality School Board Hubli, through its chairman.

Do — 4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. Malapur — 5. The Bombay Province (The Province). Defts.

Claim - Rs; 65/-

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The Pleadings are the same and have been summarised in Suit No. 5/1943. For the reasons mentioned in the Judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3- 44.

Sd/ A.C.Sequeira.
Joint First Class Sub-Judge.

30-3-44.

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2 - JAN

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45

Received on - 4-1-43

Registered on - 4-1-43

Decided on -30-3-44

Duration 451 days

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L. C. CIVIL SUIT NO. 12 of 1943.

Exh. 20

Pleaders

Messrs. Malimath &Mirigi

Abdur-rahiman wd: Hajarat-saheb Javali, age 49 , Caste Musalman, Occupation School Teacher, of Hubli.

Plaintiff.

against

Mr. Gudwala

1. The Hubli Borough Municipality Hubli, through its Chief Officer

do

2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Govt: Service, of Hubli.

do

3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

do

4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. Malapur.

5. The Bombay Province (The Province). - Defendants.

Claim -Rs. 65/-

~~The Plaintiff sue to~~

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in suit No. 5/1943. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts ~~it~~ 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

Sd/ A.C.Sequeira

30-3-44.

30-3-44. Joint First Class Sub-Judge.

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2 - JAN 1956

47

Received on - 4-1-43

Registered on -4-1-43

Decided on - 30/3/44

Duration 451 days

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L. C. CIVIL SUIT NO. ~~15~~ 13 of 1943.

Exh. 20

Pleaders
Messrs. Mirigi
&Malimath

Mahaboobi kom Saida-davood Basari,
Age 50, Caste Musalman, Occupation School
Mistress, of Hubli.

PLAINTIFF.

against

Mr. Gudwala — 1. The Hubli Borough Municipality Hubli, through ~~x~~ its Chief Officer.

do — 2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Govt: Service, of Hubli.

do — 3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

do — 4. The Administrative Officer, Local Authority Municipal School Board Hubli.

MR. Malapur — 5. The Bombay Province (The Province). - Defendants.

Claim -Rs. 65/- .

~~The Plaintiff sue to~~

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleading are the same and have been summarised in suit No. 5/1943. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 ~~x~~ get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

30-3-44. Sd/ A.C.Sequeira

Joint Firs Class Sub-Judge.

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Read by
C. Patil

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Agarabhu

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2 - JAN [illegible]

49

Received on - 4-1-43.

Registered on -4-1-43.

Decided on 30/3/44

Duration 451 days

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L. C. CIVIL SUIT NO. 14 of 1943.

Exh. 20

Pleaders

Messrs. Malimath & Mirgi

Mattesaheb Abdul-kadirsaheb Kiresoor, Age 43, Caste Musalman, Occupation School Teacher, of Hubli.

Plaintiff.

against

Mr. Gudwala

1. The Hubli Borough Municipality Hubli, through its Chief Officer.

do

2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni , Age 50, Caste Lingayat, Occupation Govt: Service, of Hubli.

do

3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

do

4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. Malapur

5. The Bombay Provicne (The Province). - defendants.

Claim -Rs. 65/-.

~~The Plaintiff sue to~~

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadins are the same and have been summarised in Suit No. 5/1943. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

Sd/ A.C.Sequeira
Joint First Class Sub-Judge.

30-3-44.

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Hunga

Read by
C. Patil

Compared by
Agarkar

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2 - Jan

51

Received on 4-1-43.

Registered on 4-1-43.

Decided on 30-3-44

Duration 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L. C. CIVIL SUIT NO. 15 of 1943.

Exh. 20

Pleaders
Messrs. S.S.MALIMATH
AND MIRJI

Imamsaheb Ahammad-saheb Kanakudati, Age 49,
Caste Musalman, Occupation School teacher,
of Hubli.

Plaintiff.

against

Mr. Gudwala

1. The Hubli Borough Municipality Hubli,
through its Chief Officer.

Do

2. The Administrator Hubli Borough Municipality
Rao Saheb P.L. Benni, Age 50, Caste Lingayat,
Occupation Govt: Service, of Hubli.

Do.

3. Hubli Local Authority Borough Municipality
School Board Hubli, through its Chairman.

Do.

4. The Administrative Officer, Local Authority
Municipal School Board Hubli.

Mr. Malapur.

5. The Bombay Province (The Province).

DEFENDANTS.

Claim - Rs. 65/-

~~The Plaintiff sue to~~

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The Pleadings are the same and have been summarised in Suit No. 5/1943. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

Sd/ A.C.Sequeira

30-3-44.

Joint First Class Sub-Judge.

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Shrinivas

Read by
A. Prabhu

Compared by
C. Patil

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2 - JAN 1956

53.

Received on.-4-1-43.

Registered on 4-1-43.

Decided on 30-3-44

Duration 451 days

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L. C. CIVIL SUIT NO. 16 of 1943.

Exh. 20

Pleaders

Messrs: Mirji &

S.S.MALIMATH.

Mahammad-yakub Peerasaheb Kanakudati,
Age 50, Caste Musalman, Occupation School
Teacher, of Hubli.

PLAINTIFF.

Against

Mr. R.H.GUDWALA.

1. The Hubli Borough Municipality Hubli,
through its Chief Officer.

DO

2. The Administrator Hubli Borough Municiaplity
Rao Saheb P.L. Benni, Age 50, Caste Lingayat,
Occupation Government Service, of Hubli.

DO.

3. Hubli Local Authority Borough Municipality
School Board Hubli, through its Chairman.

DO.

4. The Administrative Officer, Local Authority
Municipal School Board Hubli.

Mr.S.R.MALAPUR.

5. The Bombay Province (The Province).

DEFENDANTS.

Claim - Rs. 65/-.

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadins are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

Sd/ A.C. Sequeira.

30-3-44.

30-3-44. Joint First Class Sub-Judge.

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Compared by

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Received on - 4-1-43.

Registered on -4-1-43.

Decided on 30-3-44.

Duration - 451 days

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L.C. CIVIL SUIT NO. 17 of 1943.

Exh. 20

Pleaders

Messrs: Mirji &
S.S.MALIMATH .

Krishnaji Laxmikant Laxmeshwar, Age 47, Caste Brahmin, Occupation Kannada School Teacher, of Old-Hubli.

Plaintiff.

Against

Mr. R.H. GUDWALA.

1. The Hubli Borough Municipality Hubli, through its Chief Officer.

Do-

2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Government Service, of Hubli.

DO

3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

DO

4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr.S.R.MALAPUR.

5. The Bombay Province (The Province).

DEFENDANTS.

Claim - Rs. 65/-.

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The Pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

30-3-44. Sd/ A.C.Sequeira

Joint First Class Sub-Judge.

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Clerk of the Court.

2 - JAN 1956

57

Received on - 4-1-43.

Registered on - 4-1-43.

Decided on - 30-3-44.

Duration - 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L. C.. CIVIL SUIT NO. 18 of 1943.

Exh. 20

Pleaders
Messrs: Mirji &
S.S.MALIMATH.

Balubai Joshi, Age 55, Caste Brahmin,
Occupation School Mistress, of Hubli.

PLAINTIFF.

Against

Mr. R.H.GUDWAL.

1. The Hubli Borough Municipality Hubli,
through its Chief Officer.

-Do-

2. The Administrator Hubli Borough Municipality
Rao Saheb P.L.Benni, Age 50, Caste Lingayat,
Occupation Government Service, of Hubli.

-Do-

3. Hubli Local Authority Borough Municiaplity
School Board Hubli, through its Chairman.

-Do-

4. The Administrative Officer, Local Authority
Municipal School Board Hubli.

Mr. S.R. Malapur.

5. The Bombay Province (The Province).

DEFENDANTS.

'Claim-Rs. 65/-.

This suit was tried as a connected (1) suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs

30-3-44.

30-3-44. Sd/ A.C.Sequeira.

Joint First Class Sub-Judge,.

Typed by

Read by

Compared by

1/4 (one mistake) 1/4
"True Copy "

Clerk of the Court..

2 - JAN 1956

59

Received on -4-1-43.

Registered on - 4-1-43.

Decided on -30-3-44

Duration - 451 dyas

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L. C. CIVIL SUIT NO. 19 OF 1943. (1)

Exh. 20

Pleaders

Messrs: Mirji &

S.S.MALIMATH.

Shivubayawa kom Channappa Kammar, Age 44
Caste Lingavant, Occupation School Mistress
of Old-Hubli.

PLAINTIFF.

Against

Mr. R.H.GUDWALA.

1. The Hubli Borough Municipality Hubli,
through its Chief Officer.

Do.

2. The Administrator Hubli Borough Municiaplity
Rao Saheb P.L.Benni, Age 50, Caste Lingayat,
Occupation Government Service, of Hubli.

Do.

3. Hubli Local Authority Borough Municipality
School Board Hubli, through its Chairman.

Do.

4. The Administrative Officer, Local Authority
Municipal School Board Hubli.

Mr. S.R.MALAPUR.

5. The Bombay Province (The Province).

DEFENDANTS.

Claim - Rs. 65/- .

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadins are (2) the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgement in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

Sd/ A.C.Sequeira

30-3-44. Joint First Class Sub-Judge.

Typed by

Read by

Compared by

(two mistakes)
"True Copy "

Clerk of the Court.

2 - JAN 1956

Received on - 4-1-43.

Registered on 4-1-43.

Decided on - 30-3-44.

Duration 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L. C. CIVIL SUIT NO. 20 of 1943.

Exh. 20

Pleaders

Messrs: Mirji & S.S.MALIMATH.

Parvatappa Mallappa Valammanavar, Age 52, Caste Lingavant, Occupation Teacher, of Hubli.

PLAINTIFF.

Against

Mr.R.H.GUDWALA.

1. The Hubli Borough Municipality Hubli, through its Chief Officer.

DO.

2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Government Service, of Hubli.

DO.

3. Hubli Local Authority Borough Municipality, School Board Hubli, through its Chairman.

DO.

4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. S.R. MALAPUR.

5. The Bombay Province (The Province).

DEFENDANTS.

Claim -Rs. 65/-.

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

Sd/ A.C.Sequeira

30-3-44. Joint First Class Sub-Judge.

Typed by

(one mistake)

"True Copy"

Read by

Compared by

Clerk of the Court.

12 JAN 1956

Received on- 4-1-43. 63

Registered on- 4-1-43.

Decided on- 30-3-44.

Duration - 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L.C.CIVIL SUIT NO. 21 of 1943. EXH. 20.

Pleaders.

Messrs: MIRJI & S.S.MALIMATH.

Shiddayya Fakirayya Kattimani, Age 50, Caste Lingayat, Occupation School Teacher, of Hubli. PLAINTIFF.

Against

Mr. R.H.GUDWALA.

1. The Hubli Borough Municipality Hubli, through its Chief Officer.

-Do-

2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Government Service, of Hubli.

-Do-

3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

-Do-

4. The Administrative Officer, Local Authority Municipal School Board Hubli.

DEFENDANTS.

Mr. S.R.MALAPUR.

5. The Bombay Province(The Province).

Claim Rs. 65/-.

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that Suit, I pass the following order.

ORDER.

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-1944.

Sd/ A.C.Sequeira.

30-3-44.

Joint First Class Sub-Jucge.

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Typed by

Read by "I True Copy "

Compared by Clerk of the court.

2 - JAN 1950

65

Received on - 4-1-43.

Registered on -4-143.

Decided on - 30-3-44.

Duration - 451 days

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR. Exh. 20

L. C. CIVIL SUIT NO. 22 of 1943.

Pleaders

Messrs: MIRJI & S.MALIMATH.

Shidha-ramayya Shidha-lingaya Kattimani, Age 50, Caste Lingavant, Occupation School Teacher, of Hubli.

PLAINTIFF,

Against

Mr.R.H.GUDWALA.

1. The Hubli Borough Municipality Hubli, through its Chief Officer.

DO.

2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, age 50, Caste Lingayat, Occupation Government Service, of Hubli.

DO.

3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

DO.

4. The Administraive Officer, Local Authority Municipal School Board Hubli.

Mr. S.R.MALAPUR.

5. The Bombay Province (The Province). Defendants.

Claim - Rs. 65/-

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadins are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

SUit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to revocer another set of costs.

30-3-44. Sd/ A.C.Sequeira .

30-3-44. Joint First Class Sub-Judge.

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Compared by
Defendants

"True Copy "

Clerk of the Court.

2 - JAN 1956

67

Received on - 4-1-43.

Registered on - 4-1-43.

Decided on 30-3-44.

Duration - 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L.C.CIVIL SUIT NO. 23 of 1943. Exh. 20a/

PLEADERS
Messrs: MIRJI &
S . S.MALIMATH.

Maktum-hussein wd: Abdulkadarsaheb Dharwad,
Age 40, Caste Musalman, Occupation School
Teacher, of Hubli.

PLAINTIFF

Against

Mr. R.H.GUDWALA. 1. The Hubli Borough Municipality Hubli,
through its Chief Officer.

DO. 2. The Administrator Hubli Borough Municipality
Rao Saheb P.L.Benni, Age 50, Caste Lingayat ,
Occupation Government Service, of Hubli.

DO. 3. Hubli Local Authority Borough Municipality
School Board Hubli, through its Chairman.

DO. 4. The Administrative Officer, Local Authority
Municipal School Board Hubli.

Mr. S.R.MALAPUR. 5. The Bombay Province (The Province). Defendants

Claim -Rs. 65/-.

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadins are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

30-3-44. Sd/ A.C.Sequeira.

Joint First Class Sub-Judge.

Typed by
S Mangal

"True Copy "

Read by
A G Prabhu

Compared by
C Patil

Clerk of the Court.

2 - JAN 1956

Received on:- 4-1-43. 69

Registered on:- 4-1-43.

Decided on:- 30-3-44.

Duration:- 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,
AT DHARWAR.

L.C.CIVIL SUIT NO. 24 OF 1943.

EXH. 20.

Pleaders.

Messrs: MIRJI & S.S.MALIMATH.

Lingawa kom Gurushantayya Chikkamath, Age 50, Caste Lingavant, Occupation School Mistress, of Hubli. - PLAINTIFF.

AGAINST.

Mr. R.H.GUDWALA. 1. The Hubli Borough Municipality Hubli, through its Chief Officer.

-DO- 2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Government Service, of Hubli.

-Do- 3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

-Do- 4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr.S.R.MALAPUR. 5. The Bombay Province(The province) DEFENDANTS.

Claim-Rs. 65/-.

This suit was (1) tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER.

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft.No. 5 to recover another set of costs.

30/3/1944.

Sd/ A.C.Sequeira.

Joint First Class Sub-Judge.

30-3-44.

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Typed by

Read by

Compared by

(one mistake)
" True Copy "

Clerk of the Court .

2 - Jan 1950

71

Received on - 4-1-43

Registered on - 4-1-43.

Decided on - 30-3-44

Duration 451 days

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

At DHARWAR. Exh. 20.

L.C.CIVIL SUIT NO. 25 of 1943.

Pleaders
Messrs:MIRJI &
S.S.MALIMATH.

Fakirayya Rudrayya Hiremath, Age 54,
Caste Lingavant, Occupation School Teacher ,
of Hubli (Residing in Tabib Land Plot). - Plaintiff.

Against

Mr. R.H.GUDWALA.

1. The Hubli Borough Municipality Hubli,
through its Chief Officer.

DO.

2. The Administrator Hubli Borough Municipality
Rao Saheb P.L.Benni, Age 50, Caste Lingayat,
Occupation Government Service, of Hubli.

DO.

3. Hubli Local Authority Borough Municiplaity
School Board Hubli, through its Chairman.

DO.

4. The Administrative Officer, Local Authority
Municipal School Board Hubli.

MR.S. R.MALAPUR.

5. The Bombay Province (The Province). Defendants

Claim - Rs. 65/-.

This Suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit , I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs(one set). Deft No. 5 to recover another set of costs.

30-3-44. Sd/ A.C.Sequeira.

30-3-44.
Joint First Class Sub-Judge.

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Read by

Compared by

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Clerk of the Court

2 - JAN 1953

73

Received on - 4-1-43.
Registered on -4-1-43.
Decided on - 30-3-44
Duration 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L. C. CIVIL SUIT NO. 26 of 1943.

Exh. 20

Pleaders

Mr. MIRJI &
"S.S.MALIMATH.

Krishnaji Bhairambhat Joshi, Age 49, Caste Brahmin, Occupation School Teacher, of Hubli.

PLAINTIFF.

Against

Mr. R.H.GUDWALA.

1. The Hubli Borough Municipality Hubli, through its Chief Officer.

DO.

2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Government Service, of Hubli.

DO.

3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

DO.

4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. S.R.MALAPUR.

5. The Bombay Province (The Province).

DENENDANTS.

Claim -Rs. 65/-.

This suit was tried as a connected suit along with L. C. Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit , I pass the following order.

ORDER

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30-3-44.

Sd/ A.C.Sequeira
Joint First Class Sub-Judge.

30-3-44.

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Read by

Clerk of the Court.

2 - JAN

Compared by

75

Receivedon:- 4-1-43.

Registered on:- 4-1-43.

Decided on:- 30-3-44.

Duration :- 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR.

L.C.~~SUIT~~ CIVIL SUIT NO. 27 OF 1943.

EXH. 20.

Pleaders.

Mr. MIRJI &

" S.S.MALIMATH.

Bhimaji Anant Godkhindi, Caste Brahmin,
Age 45, Occupation School Teacher, of Hubli. PLAINTIFF.

AGAINST.

Mr. R.H.GUDWALA.

1. The Hubli Borough Municipality Hubli,
through its Chief Officer.

-Do-

2. The Administrator Hubli Borough Municipality
Rao Saheb P.L.Benni, Age 50, Caste Lingayat,
Occupation Government Service, of Hubli.

-Do-

3. Hubli Local Authority Borough Municipality
School Board Hubli, through its Chairman.

-Do-

4. The Administrative Officer, Local Authority
Municipal School Board Hubli.

Mr.S.R.MALAPUR.

5. The Bombay Province (The Province). DEFENDANTS.

claim -Rs. 65/-.

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in Suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

ORDER.

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No. 5 to recover another set of costs.

30/3/1944.

Sd/ A.C.Sequeira.

Joint First Class Sub-Judge.

30-3-44.

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Read by

Compared by

" True Copy "

Clerk of the Court .

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77

Received on:- 4-1-1943.

Registered On:- 4-1-1943.

Decided on:- 30-3-1944.

Duration - 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR. Exhibit No. 20.

L.C.Civil Suit No. 34 of 1943.

Pleaders.

Mr.MIRJI &
Mr. S.S.MALIMATH .

Shiddangowda Linganagowda Hiregowdar,Age 53, Caste Lingayant, Occupation School Teacher, of Hubli. Plaintiff.

against.

Mr. R.H.GUDWALA. 1. The Hubli Borough Municipality Hubli, through its Chief Officer.

-Do- 2. The Administrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50 Caste Lingayat, Occupation Government Service, of Hubli.

-Dc 3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

-Do- 4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. S.R.MALAPUR. 5. The Bombay Province (The Province). Defendants.

Claim - Rs. 65/-.

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order

ORDER.

Suit is dismissed. Defts 1 to 4 to get their costs (one set). Deft No.5 to recover another set of costs.

30-3-1944.

Sd/A.C.Sequeira

Joint First Class Sub-Judge.

30-3-1944.

Typed by .

Read by

Compared by

" True Copy "

Clerk of the Court.

2

79

Received on:- 4-7-1943.

Registered On:- 4-1-1943.

Decided on:- 30-3-1944.

Duration - 451 days.

IN THE COURT OF THE JOINT FIRST CLASS SUB-JUDGE,

AT DHARWAR. Exhibit No. 20.

L.C.Civil Suit No. 35 of 1943.

Pleaders.

Mr.MIRJI &

Mr.S.S.MALIMATH.

Basappa Shidramappa Sinde, Age 45, Caste Dhor, Occupation Kannada School Teacher, of New-Hubli (Dhor Galli) ... . Plaintiff.

against.

Mr.R.H.GUDWALA.

1. The Hubli Borough Municipality Hubli, through its Chief Officer.

-Do-

2. The Admnistrator Hubli Borough Municipality Rao Saheb P.L.Benni, Age 50, Caste Lingayat, Occupation Government Service, of Hubli.

-Do-

3. Hubli Local Authority Borough Municipality School Board Hubli, through its Chairman.

-Do-

4. The Administrative Officer, Local Authority Municipal School Board Hubli.

Mr. S.R.MALAPUR.

5. The Bombay Province (The Province). Defendants.

Claim - Rs. 65/-.

This suit was tried as a connected suit along with L.C.Suit No. 5 of 1943. The pleadings are the same and have been summarised in the suit No. 5/43. For the reasons mentioned in the judgment in that suit, I pass the following order.

O R D E R.

Suit is dismissed. Defts 1 to 4 to get their costs(one set) Deft No. 5 to recover another set of costs.

30-3-1944., Sd/A.C.Sequeira.

Joint First Class Sub-Judge.

80

Typed by

Read by

Compared by

"(One mistake)"

" True Copy "

Clerk of the Court.

2 - JAN 1956